

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MOHAMMED ZAKI AMAWI,

Plaintiff,

v.

J.S. WALTON, *et al.*,

Defendants.

Case No. 13-cv-866-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on a variety of requests within a single filing by plaintiff Mohammed Zaki Amawi (Doc. 77).

I. Objection to Report and Recommendation

The Court first considers the Report and Recommendation (“Report”) (Doc. 65) of Magistrate Judge Philip M. Frazier recommending that the Court deny Amawi’s motion for a preliminary injunction (Doc. 41). Amawi has objected to the Report (Doc. 77).

The Court may accept, reject or modify, in whole or in part, the findings or recommendations of the magistrate judge in a report and recommendation. Fed. R. Civ. P. 72(b)(3). The Court must review *de novo* the portions of the report to which objections are made. *Id.* “If no objection or only partial objection is made, the district court judge reviews those unobjected portions for clear error.” *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

Amawi is incarcerated at the United States Penitentiary at Marion, Illinois. He has been confined to the Communications Management Unit for more than four years. In that unit, his communications with outside individuals are monitored and restricted more than those of inmates in other units. He asks the Court to order prison officials to transfer him to general population

housing. At the time Magistrate Judge Frazier issued the Report, the defendants had not been served and had not appeared in the case. Consequently, the Court did not have the benefit of adversarial argument on the preliminary injunction factors. On this basis, Magistrate Judge Frazier recommended the Court deny Amawi's motion without prejudice. Amawi objects, complaining that Magistrate Judge Frazier did not explain his decision.

The Court believes Magistrate Judge Frazier's reasoning was sufficiently clear and that he was correct in declining to recommend a preliminary injunction issue without input from both sides of this case, particularly about the relative burdens of granting or denying the motion. The Court notes that some of the defendants have recently been served and may be able to respond to a newly-filed motion for preliminary injunction should Amawi chose to file one. The Court will therefore adopt the Report (Doc. 65) and deny Amawi's motion for a preliminary injunction without prejudice (Doc. 41).

II. Reconsideration of Court's Threshold Order

Amawi asks the Court to reconsider its decision under 28 U.S.C. § 1915A regarding certain claims he attempted to plead in his complaint (Doc. 8). This filing is duplicative of Amawi's motion for reconsideration (Doc. 38) of the same order, which is still pending. The Court will address Amawi's request for reconsideration when it considers that motion.

III. Objection to Magistrate Judge Frazier's Order

Amawi objects to Magistrate Judge Frazier's November 18, 2013, order (Doc. 64) denying his motion to take judicial notice of a court case (Doc. 40), motions for recruitment of counsel (Doc. 3 & 39), and motion for free copies (Doc. 37).

A district court reviewing a magistrate judge's decision on nondispositive issues should modify or set aside that decision if it is clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). Accordingly, the Court will affirm Magistrate Judge Frazier's

decision unless his factual findings are clearly erroneous or his legal conclusions are contrary to law. *Id.*

The Court has reviewed Magistrate Judge Frazier's order and finds that it is not clearly erroneous or contrary to law. Accordingly, the Court will overrule Amawi's objection and will affirm Magistrate Judge Frazier's order.

IV. Conclusion

For the foregoing reasons, the Court:

- **ADOPTS** the Report (Doc. 65) in its entirety;
- **DENIES** Amawi's motion for a preliminary injunction **without prejudice** (Doc. 41);
- **STRIKES** Amawi's request for reconsideration (Doc. 77) as duplicative of his pending motion for reconsideration (Doc. 38);
- **OVERRULES** Amawi's objection (Doc. 77) to Magistrate Judge Frazier's November 18, 2013, order (Doc. 64); and
- **AFFIRMS** that order (Doc. 64).

IT IS SO ORDERED.

DATED: March 5, 2014

s/J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE